

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION

KENDALL MAGEE

PLAINTIFF

VS.

CIVIL ACTION NO. 2:16-CV-172-KS-MTP

SHIRLEY HARRIS, ET AL

DEFENDANTS

ORDER ACCEPTING MAGISTRATE JUDGE'S RECOMMENDATION
AND OVERRULING MOTION FOR SUMMARY JUDGMENT AND DISMISSING
DEFENDANTS GLENN ALLEN AND WILLIE MCKNIGHT WITHOUT PREJUDICE

This Report and Recommendation follows a Spears hearing held on March 27, 2017, by Magistrate Judge Michael T. Parker. Plaintiff filed a Motion for Summary Judgment [23] and requested that “his complaint be dismissed with prejudice.” When questioned about this at the Spears hearing the plaintiff stated that this was an error and requested that the Motion for Summary Judgment [23] be overruled. Also at the Spears hearing plaintiff announced that he did not wish to pursue the claims against Glenn Allen and Willie McKnight. Based on the stated request of plaintiff Judge Parker recommended that the Motion for Summary Judgment [23] be denied and that all claims against Glenn Allen and Willie McKnight be dismissed without prejudice.

The Court finds that said Report and Recommendation should be accepted and made a part of this Order. Accordingly, as required by 28 U.S.C. §636(b)(1) this Court has conducted a review of the Motion and Objection and the contents of the Spears hearing and finds that the Motion for Summary Judgment [23] should be overruled and that defendants Glenn Allen and

Willie McKnight should be dismissed without prejudice.

Accordingly, it is ORDERED that Magistrate Judge Michael T. Parker's Report and Recommendation is accepted pursuant to 28 U.S.C. § 636(b)(1) and that Kendall Magee's Motion for Summary Judgment is OVERRRULED. Further the Court Orders that Glenn Allen and Willie McKnight be DISMISSED WITHOUT PREJUDICE.

SO ORDERED this, the 24th day of April, 2017.

s/Keith Starrett
UNITED STATES DISTRICT JUDGE